

Message Text

UNCLASSIFIED

PAGE 01 STATE 154546

11

ORIGIN EB-07

INFO OCT-01 EUR-12 ISO-00 L-03 JUSE-00 COME-00 TRSE-00

OMB-01 CIAE-00 INR-07 NSAE-00 /031 R

DRAFTED BY EB/CSB/BP:RJBUSHNELL:VJW

APPROVED BY EB/CSB/BP:HJWINTER

EUR/CE - RCASAGRANDE

EUR/RPE - JMCCARTHY (INFO)

L/EB - TTALLERICO

JUSTICE - DGOLDSWEIG (SUBST)

----- 004956

R 302322Z JUN 75

FM SECSTATE WASHDC

TO USMISSION USBERLIN

INFO AMEMBASSY BONN

USMISSION OECD PARIS

USMISSION EC BRUSSELS

UNCLAS STATE 154546

E.O. 11652: N/A

TAGS: ETRD, OECD, GW

SUBJECT: POSSIBLE VIOLATIONS OF US ANTITRUST LAWS BY
GERMAN COMPANIES

REF: STATE 151594

1. THE ANTITRUST DIVISION OF THE JUSTICE DEPARTMENT HAS
CONDUCTED AN INVESTIGATION INTO THE PROPOSED ACQUISITION
BY GUTEHOFFNUNGSHUTTE AKTIENVEREIN (HEREINAFTER,
"GHH-AV"), WEST GERMANY, AND ITS AMERICAN SUBSIDIARY
GUTEHOFFNUNGSHUTTE, INTERNATIONAL, INC. (HEREINAFTER,
"GHH-INTERNATIONAL") OF THE STOCK OF MILLER PRINTING
MACHINERY COMPANY (HEREINAFTER, "MILLER"), PITTSBURGH,
FROM COMMERCIAL CREDIT COMPANY, BALTIMORE, A WHOLLY OWNED
SUBSIDIARY OF CONTROL DATA CORPORATION, MINNEAPOLIS.

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 STATE 154546

2. MILLER AND GHH-AV ARE BOTH AMONG THE LARGEST MANUFACTURERS OF SHEETFED PRINTING PRESSES SOLD IN THE UNITED STATES. THE DEPARTMENT OF JUSTICE WAS PREPARED TO FILE SUIT TO ENJOIN THE MERGER ON THE GROUNDS THAT IT MIGHT HAVE RESULTED IN A SUBSTANTIAL LESSENING OF COMPETITION IN VIOLATION OF SECTION 7 OF THE CLAYTON ACT. IN LIGHT OF THE GOVERNMENT'S POSITION, THE PARTIES POSTPONED THE MERGER INDEFINITELY, AGREEING TO GIVE THE GOVERNMENT AT LEAST 60 DAYS NOTICE IF THE MERGER PLANS ARE REACTIVATED. IF THE ACQUISITION HAD BEEN CONSUMMATED ON MAY 30, 1975, AS PLANNED, THE RESULTING CONCERN WOULD HAVE BEEN BY FAR THE LARGEST MANUFACTURER OF SHEETFED PRESSES IN THE AMERICAN MARKET, WHICH IS ALREADY HIGHLY CONCENTRATED.

3. ALTHOUGH THE CLAYTON ACT SECTION 7 MATTER IS FOR THE PRESENT MOOT, THE ANTITRUST DIVISION IS CONDUCTING AN INVESTIGATION OF A POSSIBLE VIOLATION OF SECTION 1 OF THE SHERMAN ACT BY THE PARTIES TO THE PROPOSED MERGER. UNRELATED TO THE MERGER, SOME YEARS AGO, IN CONNECTION WITH GHH-AV'S MAKING MILLER THE EXCLUSIVE DISTRIBUTOR IN THE UNITED STATES OF SHEETFED PRINTING PRESSES PRODUCED BY ONE OF GHH-AV'S SUBSIDIARIES MASCHINENFABRIK AUGSBURG-NURNBERG A.G. (HEREINAFTER, "MAN"), BOTH MILLER AND MAN SIGNED A LETTER THAT, IN EFFECT, RESTRICTED EACH FROM MANUFACTURING FOR SALE IN THE UNITED STATES SHEETFED PRESSES OF SIZES THEN MANUFACTURED BY THE OTHER. FURTHER, AN AGREEMENT RAISING SIMILAR ANTITRUST QUESTIONS WAS EXECUTED BETWEEN ANOTHER OF GHH-AV'S SUBSIDIARIES, ROLAND OFFSETMASCHINENFABRIK FABER AND SCHLEICHER (OVER 50 PERCENT OF WHICH IS OWNED BY MAN) AND MIEHLE, GOSS AND DEXTER, INC. (HEREINAFTER MIEHLE) OF CHICAGO (A SUBSIDIARY OF ROCKWELL INTERNATIONAL). MIEHLE IS A MAJOR PRODUCER AND SELLER OF SHEETFED PRINTING PRESSES IN THE UNITED STATES.

4. JUSTICE PLANS TO REQUEST FURTHER INFORMATION FROM GHH-AV ABOUT THE POSSIBLY ANTI-COMPETITIVE AGREEMENTS BETWEEN ITS WEST GERMAN SUBSIDIARIES AND THEIR TWO AMERICAN DISTRIBUTORS. IN THIS REGARD, MEETINGS MAY BE SCHEDULED IN GERMANY AT THE OFFICES OF GHH-AV AND UNCLASSIFIED

UNCLASSIFIED

PAGE 03 STATE 154546

ITS SUBSIDIARIES. AS WELL, A MEETING MAY BE SCHEDULED AT THE OFFICES OF HEIDELBERGER DRUCKMASCHINEN A.G. (A COMPANY RELATED TO GHH-AV IN THAT BOTH ARE PARTIALLY OWNED BY ALIANZ VERSICHERUNG OF WEST GERMANY), IN ORDER TO FURTHER THE INVESTIGATION. THESE PROPOSED MEETINGS ARE AMONG THOSE MENTIONED IN REFTEL.

5. IN ACCORDANCE WITH THE 1967 OECD RECOMMENDATION CON-

CERNING NOTIFICATION AND CONSULTATION ON ANTITRUST MATTERS, US MISSION BERLIN IS REQUESTED TO INFORM THE FRG OF THE INVESTIGATION AND POSSIBLE VIOLATIONS OF US ANTITRUST LAWS. NOTIFICATION SHOULD BE MADE TO: PROF. DR. E. GUNTHER, PRESIDENT, FEDERAL CARTEL OFFICE, MEHRINGDAMM 129. DR. GUNTHER SHOULD BE INFORMED OF THE PROPOSED INFORMAL CONSULTATIONS TO BE HELD IN GERMANY BY JUSTICE ATTORNEY DAVID GOLDSWEIG (SEE REFTEL AND PARA. 4 ABOVE) WITH SEVERAL GERMAN COMPANIES. PLEASE REPORT ANY SIGNIFICANT REACTIONS. INGERSOLL

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ANTITRUST, DISPUTES, LAW, BUSINESS FIRMS
Control Number: n/a
Copy: SINGLE
Draft Date: 30 JUN 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE154546
Document Source: CORE
Document Unique ID: 00
Drafter: RJBUSHNELL:VJW
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750227-0498
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t1975062/aaaaabkb.tel
Line Count: 125
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 75 STATE 151594
Review Action: RELEASED, APPROVED
Review Authority: greeneet
Review Comment: n/a
Review Content Flags:
Review Date: 04 MAR 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <04 MAR 2003 by PhilliR0>; APPROVED <12 MAR 2004 by greeneet>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: POSSIBLE VIOLATIONS OF US ANTITRUST LAWS BY GERMAN COMPANIES
TAGS: ETRD, GE, US, OECD, (GOLDSWEIG, DAVID)
To: USBERLIN
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006